

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

QUINDELL MONTRAE' KIRBY, )  
 )  
Petitioner, )  
 )  
v. ) Civil Action No. 3:23-cv-216-HEH  
 )  
HAROLD CLARKE, )  
 )  
Respondent. )

**MEMORANDUM OPINION**  
(Dismissing Successive § 2254 Petition)

Petitioner, a Virginia inmate proceeding *pro se*, submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his convictions in the Circuit Court for the County of Chesterfield, Virginia of second-degree murder and use of a firearm in the commission of a murder. (ECF No. 1 at 1.) The Court previously denied a 28 U.S.C. § 2254 petition filed by Petitioner challenging these convictions. *Kirby v. Clarke*, No. 3:17CV559, 2018 WL 2224057, at \*1-\*4 (E.D. Va. May 11, 2018).

The Antiterrorism and Effective Death Penalty Act of 1996 restricted the jurisdiction of the district courts to hear second or successive applications for federal habeas corpus relief by prisoners attacking the validity of their convictions and sentences by establishing a “gatekeeping mechanism.” *Felker v. Turpin*, 518 U.S. 651, 657 (1996) (internal quotation marks omitted). Specifically, “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move

in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A).

The Court has not received authorization from the United States Court of Appeals for the Fourth Circuit to consider the present § 2254 petition. Therefore, the action will be dismissed without prejudice for want of jurisdiction. A certificate of appealability will be denied.

An appropriate Final Order will accompany this Memorandum Opinion.

A handwritten signature in blue ink, appearing to read "HENRY E. HUDSON", is written over a blue ink arrow pointing upwards and to the right.

/s/

Henry E. Hudson  
Senior United States District Judge

Date: April 14, 2023  
Richmond, Virginia